

REMARKS

Initially, applicant would like to thank the Office for its withdrawal of the previous rejections.

Claims 1, 3-13, 15-20 and 22-43 are pending in the application. Claims 3, 10, 11, 16, 18-20, 23-33 and 41-43 have been previously withdrawn. Claims 1, 4-9, 12, 13, 15, 17, 22, and 34-40 are newly rejected. Currently claims 1, 36 and 37 are amended. Applicant respectfully requests favorable reconsideration for the reasons given below.

35 U.S.C. §102/103 Rejections

Claims 1, 5, 12, 13, 22 and 35-37 were newly rejected under 35 U.S.C. §102 as anticipated by, or in the alternative under 35 U.S.C. §103 as obvious over, United States Patent Number 3,254,510 ("Lesley").

Anticipation under 35 U.S.C. §102 requires a disclosure of "each and every element as set forth in the claim" (MPEP 2131). Similarly, obviousness under 35 U.S.C. §103, requires that the prior art "must teach or suggest all the claim limitations" (MPEP 2143).

1. Lesley's Yarns are "Inelastic" as Defined by the Specification

Applicant respectfully submits that Lesley fails to disclose or suggest the "elastomeric or stretch" limitations of the instant claims. As defined by applicant's specification (emphasis added):

Inelastic yarns...have elongations at **break of less than 100%** and may be any conventional textile yarn, either continuous-filament (textured or nontextured) or staple yarns or combinations of the two types, including both synthetic fiber and natural fibers, such as nylon, polyester, wool, and cotton (page 16).

Applicant respectfully submits that all of the yarns disclosed or suggested by Lesley are *inelastic, conventional* yarns according to the present application. Lesley only discloses yarns that are "capable of from about 10-50% or more elastic elongation before breaking" (col. 1, lines 52-55) and that are "preferably capable of about 40 or 50% or more elastic elongation" (col. 5, line 7). For at least this reason, applicant respectfully requests favorable reconsideration of the instant rejections.

Despite the fact that Lesley's yarns are *inelastic* as defined by the present application, in an effort to further clarify the distinction, applicant has amended claims 1, 36 and 37 to recite that elastomeric or stretch yarns of the present invention have an elongation at break of greater than 100%.

Lesley also fails to disclose or suggest other limitations of the present invention.

2. Lesley Fails to Disclose or Suggest Stitch Evasion

Applicant respectfully submits that Lesley fails to disclose or suggest the use of *stitch evasion*. Lesley does disclose that in some instances a "third warp can be knit such as to compliment either the warp knit under high tension or the warp knit under relatively low tension, or the third warp can be simply floated into the fabric for additional effects". However, Lesley makes no disclosure that the floated yarn is *stitch evaded*, in particular, Lesley makes no disclosure that the floated yarn is free to avoid being pinned down by bar yarn overlap (as discussed, for example, in the specification on page 24). Most importantly, a third bar yarn simply *floats* into the fabric would not be visible on either face or back fabric surfaces because it would be sandwiched in between the front bar yarn and the back bar yarn, thereby lying in the center of the fabric and would not be present on either fabric surface. For at least this reason, applicant respectfully requests favorable reconsideration of the instant claims.

3. Lesley Fails to Disclose or Suggest Using an Elastomeric or Stretch Yarn to Control the Location of a Stitch Evaded Yarn

As noted, Lesley fails to disclose (1) an elastomeric or stretch yarn and (2) a stitch evaded yarn. However, even if the Office construes Lesley's inelastic yarn as an *elastomeric or stretch yarn*, and even if the Office construes Lesley's floated yarn as a *stitch evaded yarn*, Lesley would still fail to disclose or suggest using an *elastomeric or stretch yarn to force a stitch evaded yarn to the second side*. Lesley only discloses that a floated yarn may sometimes be used for "additional effects" (col. 4, lines 52-53). Lesley makes no specific disclosure about the interaction between the floated yarn, the inelastic yarn (what the Office contends is applicant's elastomeric or stretch yarn), and either face of the fabric. Further, as noted above, a floated yarn

would be sandwiched in between the front bar yarn and could not be forced *to the second side of the fabric* as recited by the claims. For at least these reasons, applicant respectfully requests favorable reconsideration of the instant claims.

35 U.S.C. §103 Rejections

Claims 14 and 15 were rejected under 35 U.S.C. §103 as obvious over Lesley in further view of United States Patent No. 4,879,169 (“Zafiroglu”). Applicant submits that Zafiroglu is unable to fill the above mentioned voids, and respectfully requests favorable reconsideration for at least the reasons given above.

Claims 6-9 were rejected under 35 U.S.C. §103 as obvious over Lesley in further view of either United States Patent No. 4,574,397 (“Dennard”) or United States Patent No. 5,123,117 (“Prendergast”). Applicant submits that neither Dennard nor Prendergast, nor their combination, is able to fill the above mentioned voids, and respectfully requests favorable reconsideration for at least the reasons given above.

Claim 17 was rejected under 35 U.S.C. §103 as obvious over Lesley in further view of United States Patent No. 5,916,273 (“Hepfinger”). Applicant submits that Hepfinger is unable to fill the above mentioned voids, and respectfully requests favorable reconsideration for at least the reasons given above.

Claim 34 was rejected under 35 U.S.C. §103 as obvious over Lesley. Applicant respectfully requests favorable reconsideration for at least the reasons given above.


Claims 38-40 were rejected under 35 U.S.C. §103 as obvious over Lesley in further view of United States Patent No. 5,855,124 (“Donaghy”). Applicant submits that Donaghy is unable to fill the above mentioned voids, and respectfully requests favorable reconsideration for at least the reasons given above.

Claims 1, 4, 5, 12, 13, 15, 22 and 34-40 were rejected under 35 U.S.C. §103 as obvious over United States Patent No. 3,041,861 (“Kasey”) in view of Zafiroglu, in view of Lesley. For at least the reasons given above, and in particular that Lesley fails to disclose or suggest stitch evasion and that Lesely’s floated yarn is trapped and cannot be forced *to the second side of the fabric*, applicant respectfully requests favorable reconsideration of the instant rejections.

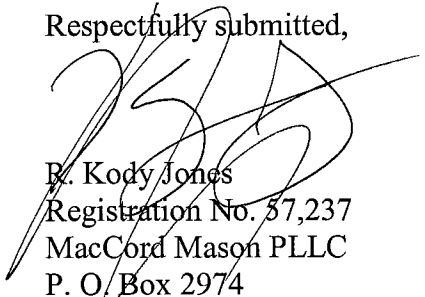
Claims 6-9 were rejected under 35 U.S.C. §103 as obvious over Kasey in view of Zafiroglu, in view of Lesley, in further view of either Dennard or Prendergast. For at least the reasons that Lesley fails to disclose or suggest stitch evasion and that Lesley's floated yarn is trapped and cannot be forced *to the second side of the fabric*, applicant respectfully requests favorable reconsideration of the instant rejections.

Claim 17 was rejected under 35 U.S.C. §103 as obvious over Kasey in view of Zafiroglu, in view of Lesley, in further view of Hepfinger. Applicant respectfully requests favorable reconsideration of the instant rejection for the reasons previously indicated.

Conclusion

 Applicant submits that by this amendment he has placed the case in condition for allowance and such action is respectfully requested. If, however, any issue remains unresolved, Applicant's attorney would welcome the opportunity for a telephone interview to expedite allowance and issue.

Respectfully submitted,


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